

ATLANTIC COUNTY DEPARTMENT OF LAW
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Atlantic City, NJ 08401
(609) 343-2279
Alan J. Cohen, Assistant County Counsel (012551981)
Attorney for Defendant Edward McGettigan, in his official capacity as Atlantic County Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE**

<p>CHRISTINE CONFORTI, ARATI KREIBICH, MICO LUCIDE, JOSEPH MARCHICA, KEVIN MCMILLAN, ZINOVIA SPEZIAKIS, and NEWJERSEY WORKING FAMILIES ALLIANCE, INC., Plaintiff, v. CHRISTINE GIORDANO HANLON, in her official capacity as Monmouth County Clerk, SCOTT M. COLABELLA, in his official capacity as Ocean County Clerk, PAULA SOLLAMI COVELLO, in her official capacity as Mercer County Clerk, JOHN S. HOGAN, in his official capacity as Bergen County Clerk, EDWARD P. MCGETTIGAN, in his official capacity as Atlantic County Clerk, and E. JUNIOR MALDONADO, in his official capacity as Hudson County Clerk, Defendants.</p>	<p>HON. ZAHID N. QURAISHI, U.S.D.C. Civ. A. No. 3:20-CV-08267-FLW-TJB Civil Action ANSWER, AFFIRMATIVE DEFENSES, CROSS-CLAIM, AND DESIGNATION OF TRIAL COUNSEL ON BEHALF OF EDWARD P. MCGETTIGAN, IN HIS OFFICIAL CAPACITY AS ATLANTIC COUNTY CLERK</p>
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Defendant, Edward P. McGettigan, in his official capacity as Atlantic County Clerk, by way of Answer to Plaintiff's First Amended Complaint says:

INTRODUCTION

Defendant Edward McGettigan previously served as Atlantic County Clerk. The remaining statements of this paragraph do not apply to this defendant.

NATURE OF THE CASE

1. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
2. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
3. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
4. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
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10. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
11. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

12. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
13. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

JURISDICTION AND VENUE

14. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
15. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
16. Neither admitted nor denied and plaintiffs are left to their proofs.
17. Neither admitted nor denied and plaintiffs are left to their proofs.
18. Neither admitted nor denied and plaintiffs are left to their proofs.

PARTIES

19. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
20. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
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27. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
28. Neither admitted nor denied and plaintiff Lucide is left to his proofs.
29. Neither admitted nor denied and plaintiff Lucide is left to his proofs.
30. Neither admitted nor denied and plaintiff Lucide is left to his proofs.
31. Neither admitted nor denied and plaintiff Lucide is left to his proofs.
32. Neither admitted nor denied and plaintiff Lucide is left to his proofs.
33. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
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56. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

DEFENDANTS

57. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
58. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
59. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

60. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
61. Defendant Edward McGettigan served as Atlantic County Clerk from 2006 until November 2, 2021. Joseph Girallo was elected the new Atlantic County Clerk on November 2, 2021.
62. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
63. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
64. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
65. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

STATEMENT OF FACTS AND LAW

A. Basic Ballot Layout.

66. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
67. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
68. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

B. Pivot Point

69. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
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72. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

C. Bracketing

73. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
74. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
75. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

D. Ballot Position

76. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.
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80. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

81. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

E. United States Senate and Gubernatorial Candidates

82. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

83. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

84. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

85. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

F. Arbitrary Criteria For Ballot Advantage and Varying Standards of County

Clerks

86. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

87. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

88. Denied as to this defendant. All other allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

89. Neither admitted nor denied as to this defendant. All other allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

G. Position Bias/Primacy Effect and Other Poor Ballot Design Features

90. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

91. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

92. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

93. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

94. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

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98. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

99. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

100. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

H. Conforti Ballot Draw/Ballot Placement

101. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

102. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

a. Conforti Monmouth County Ballot Draw and Ballot Placement.

103. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

104. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

105. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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107. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

108. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

b. Conforti's Ocean County Ballot Draw and Ballot Placement

109. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

110. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

111. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

112. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

113. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

c. Conforti's Mercer County Ballot Draw and Ballot Placement

114. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

115. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

116. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

117. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

I. Kreibich Ballot Draw/Ballot Placement

118. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

119. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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124. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

125. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

J. Atlantic County Ballot Draw/Ballot Placement and Lucide's Upcoming Primary

126. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

127. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

128. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

129. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

130. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

131. This defendant neither admits nor denies the allegations of this paragraph and hence the plaintiffs are left to their proofs.

K. Marchica Ballot Draw/Ballot Placement

132. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

133. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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141. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

L. McMillan Ballot Draw/Ballot Position

142. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

143. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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151. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

M. Bergen and Hudson County Ballot Draws/Ballot Placement and Spezakis'

Upcoming Primary

152. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

153. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

a. Bergen County Ballot Draw/Ballot Placement

154. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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160. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

b. Hudson County Ballot Draw/ Ballot Placement

161. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

162. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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166. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

N. NJWF

167. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

CLAIMS FOR RELIEF

COUNT I

168. This defendant repeats and incorporates herein all the responses to the above paragraphs as though fully set forth herein.

169. This allegation is neither admitted nor denied by this defendant.

170. This allegation is neither admitted nor denied by this defendant.

171. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

172. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

173. Denied as to this defendant. As to the remaining defendants, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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182. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

COUNT II

183. This defendant repeats and incorporates herein all the responses to the above paragraphs as though fully set forth herein.

184. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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194. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

COUNT III

195. This defendant repeats and incorporates herein all the responses to the above paragraphs as though fully set forth herein.

196. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

197. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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208. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

COUNT IV

209. This defendant repeats and incorporates herein all the responses to the above paragraphs as though fully set forth herein.

210. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

211. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

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221. The allegations of this paragraph do not apply to this defendant and hence, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

COUNT V

222. This defendant repeats and incorporates herein all the responses to the above paragraphs as though fully set forth herein.

223. This allegation is neither admitted nor denied by this defendant.

224. Denied as to this defendant. As to the remaining defendants, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

225 Denied as to this defendant. As to the remaining defendants, the allegations are neither admitted nor denied and plaintiffs are left to their proofs.

WHEREFORE, this Defendant respectfully asks this Court to enter Judgment DISMISSING all claims in this action against this Defendant and awarding this Defendant attorney fees and costs associated with the defense of this matter and any other relief that the Court deems just and proper under the circumstances of this case.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Complaint is barred, in whole or in part, by the doctrines of waiver, laches, unclean hands, accord and satisfaction, and/or Equitable Estoppel.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs cannot establish that they have been disenfranchised with regard to the right to vote.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs have suffered no harm or damages.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs have delayed from seeking a remedy and must be barred from the requested relief.

SIXTH AFFIRMATIVE DEFENSE

Defendants have not deprived plaintiffs of any right, privilege or immunity secured to them by the Constitution or the laws of the United States, or of the State of New Jersey.

CROSS-CLAIM FOR CONTRIBUTION AND INDEMNIFICATION

Without admitting any liability whatsoever, Defendant, Edward McGettigan, in his capacity as Atlantic County Clerk, hereby demands from any/all other defendants (currently named

or to be named) in this action both contribution and indemnification pursuant to any/all applicable provisions of common law, and/or contract and/or statute, (including, but not limited to, the New Jersey Joint Tortfeasor's Contribution Act N.J.S.A. 2:53A, et seq.), and the New Jersey Tort Claims Act N.J.S.A. 59:9-3, 9-4 and/or by way of demand for complete indemnification against all other defendants currently named or to be named, assert that any negligence on the part of Defendant, Edward McGettigan, in his capacity as Atlantic County Clerk, is only secondary, vicarious, and imputed, whereas the negligence of any/all such other defendants was primary, direct and active.

DESIGNATION OF TRIAL COUNSEL

Alan J. Cohen, Assistant County Counsel, is hereby designated as trial counsel for Defendant, Edward McGettigan, in his capacity as Atlantic County Clerk in the above matter.

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I, Alan J. Cohen, Esquire, hereby certify as follows:

1. To the best of my knowledge, this matter is not the subject of any other action pending in any Court or any pending arbitration proceeding.
2. To the best of my knowledge, no action or arbitration proceeding is contemplated.
3. To the best of my knowledge, there are no other parties who should be joined in this litigation at this time.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

ATLANTIC COUNTY LAW DEPARTMENT

By: s/ Alan J. Cohen.

Date: July 28, 2022

Alan J. Cohen, Assistant County Counsel
Attorney for Defendant Edward McGettigan, in his capacity as Atlantic County Clerk

CERTIFICATION OF SERVICE

I certify that a copy of this Answer of Defendants to Plaintiffs' Complaint was served via electronic filing upon all counsel of record.

ATLANTIC COUNTY LAW DEPARTMENT

By: s/ Alan J. Cohen.

Date: July 28, 2022

Alan J. Cohen, Assistant County Counsel
Attorney for Defendant Edward McGettigan, in his capacity as Atlantic County Clerk